

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROSY GONZALEZ

Plaintiff,

v.

LEXINGTON INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. _____

**DEFENDANT LEXINGTON INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant LEXINGTON INSURANCE COMPANY (“Lexington”) files its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy, and respectfully shows the following.

I.

Factual Background

1. On or about October 26, 2016, Plaintiff Rosy Gonzalez (“Gonzalez”) filed her Original Petition in a case styled *Rosy Gonzalez v. Lexington Insurance Company*, Cause No. 2016-74501, pending in the 55th Judicial District Court for Harris County, Texas.

2. The Texas Insurance Commission received service of the Original Petition on Lexington’s behalf on November 16, 2016. Defendant Lexington filed their Original Answer to Plaintiff’s Original Petition on December 12, 2016.

3. Lexington files this notice of removal within 30 days of this case becoming removable and within one year from the commencement of the action. *See* 28 U.S.C. §1446(b) and (c).

4. Attached hereto are copies of the following documents:

- **Exhibit A:** Index of matters filed with attached State Court Clerk's file including processes, pleadings, and orders served in State Court case, and a copy of the State Court Docket Sheet;
- **Exhibit B:** List of Parties and Counsel.

II.

Basis For Removal

5. Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

Plaintiff and Lexington Are Diverse

6. Upon information and belief, Plaintiff, Rosy Gonzalez, was a resident of the state of Texas at the time the lawsuit was filed.

7. Lexington is, and was at the time the lawsuit was filed, incorporated under the laws of the state of Delaware, with its principal place of business in Boston, Massachusetts.

The amount in controversy exceeds the jurisdictional requirements for subject matter jurisdiction.

8. As alleged in her Original Petition, Plaintiff stipulates that she seeks monetary relief between \$100,000 and \$200,000. *See* Plaintiff's Original Petition, Section II (**Exhibit A**). Therefore, the amount in controversy exceeds the jurisdictional requirements for removal.

III.

The Removal is Procedurally Correct

9. Because this Notice of Removal is being filed within 30 days after the case became removable and within one year from the commencement of the action, the removal is timely under 28 U.S.C. § 1446(b) and (c).

10. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division.

11. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

12. Promptly after Lexington files this Notice of Removal, written notice of the filing will be given to Plaintiff pursuant to 28 U.S.C. §1446(d).

13. Promptly after Lexington files this Notice of Removal, a true and correct copy of same will be filed with the Clerk of the Harris County District Court pursuant to 28 U.S.C. §1446(d).

IV.

Conclusion

14. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Lexington hereby removes this case to this Court for trial and determination.

Respectfully submitted,

By: /s/ Jennifer M. Kearns
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**ATTORNEYS FOR DEFENDANT
LEXINGTON INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of December, 2016, a true and correct copy of the foregoing instrument was delivered to all known counsel of record in accordance with the Federal Rules of Civil Procedure and any applicable Local Rules, as follows:

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/s/ Jennifer M. Kearns
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